

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHANE K. HOPKINS,,
PLAINTIFF,

v.

JOHN POSEY, ET AL.,
DEFENDANTS

CA No. 05-870-SLR

COMES NOW THE PLAINTIFF SHANE K. HOPKINS
MOTION IN SUPPORT OF PERMISSION TO AMEND HIS
COMPLAINT.

- 1) THE DEFENCE BROUGHT UP SEVERAL VALID POINTS
WITHIN THEIR RESPONSE IN OPPOSITION TO MOTION TO
AMEND THE COMPLAINT.
- 2) THE PLAINTIFF WOULD LIKE TO ADDRESS THESE
ASPECTS PRIOR TO THE COURTS DECISION ON THIS MATTER.
- 3) THE PLAINTIFF REQUESTED PERMISSION TO AMEND THE
COMPLAINT IN ORDER TO ADD (6) ADDITIONAL DEFENDANTS,
(5) OF WHICH THE PLAINTIFF CONTENTS WERE PRESENT
AND OR TOOK PART IN THE NOVEMBER 26TH 2004
INCIDENT FOR WHICH THE PLAINTIFF HAS FILED
COMPLAINT.

(1)

FILED	
JUN 22 2007	
U.S. DISTRICT COURT	
DISTRICT OF DELAWARE	

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- 4) THE PLAINTIFF REQUESTS THAT THE COURT TAKES 15(C) SUBPARAGRAPH (3)(B) INTO CONSIDERATION AND INQUIRE WHETHER THE DEFENDANTS KNEW OR SHOULD HAVE KNOWN THAT, BUT FOR A MISTAKE CONCERNING THE IDENTITY OF THE PROPER PARTY, THE ACTION WOULD HAVE BEEN BROUGHT WITH THE ORIGINAL CLAIMS.
- 5) IT IS THE PLAINTIFFS CONTENTION THAT THE USE OF A CHEMICAL AGENT E.G. CAPFOAM RENDERED THE PLAINTIFF TEMPORARILY BLIND AND INCAPABLE OF ACCURATELY IDENTIFYING ANY CORRECTIONAL OFFICER OTHER THAN C/O JOHN PUSEY AND C/O JOE SMITH WHO WERE IN THE PROCESS OF ASSAULTING THE PLAINTIFF PRIOR TO THE USE OF THE CAPFOAM.
- 6) THE PLAINTIFF HAS LEARNED OF THE IDENTITY OF SEVERAL CORRECTIONAL OFFICERS WHO WHERE PRESENT AND/OR INVOLVED THROUGH THE PROCESSES OF DISCOVERY AND THE TAKING OF DECLARATIONS FROM INMATE WITNESSES.
- 7) THE PLAINTIFF HAS ALSO TRIED TO DISCERN WHICH CORRECTIONAL OFFICERS COULD HAVE REASONABLY BEEN EXPECTED TO RESPOND TO ANY DISTURBANCE CALL WITHIN BUILDING # 22 ON NOVEMBER 26TH 2004 AT THE TIME OF THE INCIDENT.

(2)

8) THE PLAINTIFF IS NOW AWARE THAT C/O GLENENISE BAKER WAS PRESENT AND ACTED WITH DELIBERATE INDIFFERENCE AND FAILED TO INTERVENE WHEN THE PLAINTIFF WAS BEING UNLAWFULLY BEATEN. ALSO "UPON INFORMATION AND BELIEF," C/O GLENENISE BAKER WAS RESPONSABLE FOR STRIKING THE PLAINTIFF IN THE LEGS AFTER THE PLAINTIFF HAD BEEN UNNECESSARILY RESTRAINED. AFTER THE PLAINTIFF HAD BEEN HANDCUFFED, CAPFOAMED AND WAS LAYING FACE DOWN ON THE FLOOR UNRESISTING IN A MALICIOUS AND SADISTIC ACTION.

9) THE PLAINTIFF IS NOW AWARE THAT SGT CLIFTON OUTTEN WAS PRESENT AND ACTED WITH DELIBERATE INDIFFERENCE AND FAILED TO INTERVENE WHEN THE PLAINTIFF WAS BEING UNLAWFULLY BEATEN. FURTHERMORE SGT. CLIFTON OUTTEN'S USE OF CAPFOAM UPON THE PLAINTIFF WHO WAS FACE DOWN AND UNRESISTING, WHILE INCAPABLE OF POSING ANY THREAT OF HARM TO ANYONE WAS A MALICIOUS AND SADISTIC ACTION.

10) THE PLAINTIFF HAS DISCERNED THAT C/O LUISA SKINNER AND C/O SHANE BURWELL MOST LIKELY RESPONDED TO ANY DISTURBANCE CALL ON NOVEMBER 26TH 2004 DUE TO THEIR PROXIMATE LOCATION AND JOB ASSIGNMENT. FOR THE AFOREMENTIONED DATE.

- 11) AS THE PLAINTIFF HAS PLED WITHIN PAST MOTIONS AND LETTERS TO THE COURT THE PLAINTIFF IS UNAWARE IF "INITIAL DISCLOSURES" APPLY TO THIS CASE. HOWEVER IT IS THE PLAINTIFF'S CONTENTION THAT IF THEY DID THE PLAINTIFF WOULD HAVE LEARNED THE NAMES OF PERSONS "LIKELY TO HAVE DISCOVERABLE INFORMATION RELEVANT TO DISPUTED FACTS ALLEGED WITH PARTICULARITY IN THE PLEADINGS".
- 12) ANY CORRECTIONAL PERSONNEL WHO THE DEFENCE IS AWARE OF BEING PRESENT DURING THE NOVEMBER 26TH 2004 INCIDENT IS LIKELY TO HAVE DISCOVERABLE INFORMATION IF THE DEFENCE IS SURE TO USE ANY STATEMENTS THEY MAY PROVIDE. DEPOSITIONS OF THESE CORRECTIONAL PERSONNEL MAY BE NEEDED.
- 13) THE PLAINTIFF HAS ASKED THE COURT TO CONSIDER ALLOWING THE PLAINTIFF TO AMEND THE COMPLAINT TO ADD A VIOLATION OF THE PLAINTIFF'S DUE PROCESS BY LT. SAVAGE DURING HIS INSTITUTIONAL DISCIPLINARY HEARING.
- 14) THE DEFENCE STATES WITHIN THEIR OPPOSITION TO AMEND THE COMPLAINT, PARAGRAPH # 13 "THE ONLY RELATIONSHIP THE PROPOSED DUE PROCESS CLAIM HAS WITH THE ALLEGATIONS IN PLAINTIFF'S COMPLAINT IS THAT THE PLAINTIFF WAS DISCIPLINED AS A RESULT OF THE ALTERCATION THAT OCCURRED ON NOVEMBER 26, 2004.

- 15) FEDERAL RULE 15 (C) (2) ALLOWS AN AMENDMENT OF A PLEADING TO RELATE BACK TO THE DATE OF THE ORIGINAL PLEADING WHEN THE CLAIM AROSE OUT OF THE "CONDUCT, TRANSACTION, OR OCCURRENCE SET FORTH OR ATTEMPTED TO BE SET FORTH IN THE ORIGINAL PLEADING.
- 16) WITHOUT THE "CONDUCT" OF THE NOVEMBER 26TH 2004 INCIDENT THERE WOULD HAVE BEEN NO DISCIPLINARY HEARING.
- 17) WITHOUT THE "TRANSACTION" BETWEEN THE PLAINTIFF AND THE DEFENDANTS ON NOVEMBER 26TH 2004 THERE WOULD HAVE BEEN NO DISCIPLINARY HEARING.
- 18) WITHOUT THE "OCCURRENCE" BETWEEN THE PLAINTIFF AND THE DEFENDANTS ON NOVEMBER 26TH 2004, THERE WOULD HAVE BEEN NO DISCIPLINARY HEARING.
- 19) AS A RESULT OF THIS DUE PROCESS VIOLATION THE PLAINTIFF LOST HIS JOB, GOOD TIME CREDIT, AND SPENT (18) MONTHS WITHIN DELAWARE CORRECTIONAL CENTER'S SUPER MAX HOUSED WITH THE "WORST OF THE WORST", WHERE THE PLAINTIFF WAS SUBJECTED TO LOCKDOWN FOR ALL BUT (3) HOURS PER WEEK, LOSS OF CONTACT VISITS WITH FAMILY, PHONE CALLS AND COMMISSARY LIMITATIONS AMONG OTHER SIGNIFICANT HARSHIPS.

19) THE PLAINTIFF UNDERSTANDS THAT ULTIMATELY THE DECISION TO ALLOW THE AMENDMENTS TO THE COMPLAINT IS AT THE DISCRETION OF THE COURT.

20) THE PLAINTIFF MAY NOT FULLY UNDERSTAND THE FEDERAL RULES OF CIVIL PROCEDURE. ANY REQUESTS THAT ARE MADE BY THE PLAINTIFF ARE DONE FOLLOWING HIS OWN INTERPRETATION OF OFTEN CONFUSING LEGAL JARGON. AS ALWAYS THE PLAINTIFF REQUESTS THE COURTS PATIENCE FOR HIS LACK OF KNOWLEDGE.

DATED: 6-16-07

Shane Hopkins
SHANE K. HOPKINS #253918
DELAWARE CORRECTIONAL CENTER
1181 Padlock Rd
Smyrna Delaware
19977

(6)

Certificate of Service

I, SHANE K. HOPKINS, hereby certify that I have served a true and correct cop(ies) of the attached: MOTION IN SUPPORT OF AMENDING COMPLAINT AND NON OPPOSITION TO EXTENSION upon the following parties/person (s):

TO: STACEY XARhakos
DEPUTY ATTORNEY GENERAL
620 N FRENCH ST. 6TH FLOOR
WILMINGTON DELAWARE
19801

TO: _____

TO: _____

TO: _____

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 20th day of JUNE, 2007

SHANE. Hopkins

IM Single Hopkins
SBI# 253916 UNIT 22
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977



OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
844 N. KING STREET
WILMINGTON, DELAWARE
19801-3570

Legal Mail
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